

The Honorable

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CITY OF SEATTLE, Assistant Chief Steve)
Wilske, John Doe 1, Jane Doe 1,) **JURY DEMAND**

Defendants.

COMPLAINT

JURY DEMAND

POLICE GRENADE INJURES JOURNALIST

1. Journalist and Plaintiff Sam Levine reported on the May 1, 2016, demonstration in downtown Seattle. While reporting, he was injured by a grenade. That grenade was thrown by a Seattle police officer. The grenade's shrapnel pierced Levine's cheek and lodged in his face.

1
2



Sam (((Levine)))
@samlevine



Follow

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As blast balls by SPD are back in local news,
this is before over an inch of rubber was
removed from me



22 RETWEETS LIKES
23 9 6



24 7:03 PM - 13 Jun 2016



25 9

6

...

26

COMPLAINT – Page 2

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2. Everything here is on video. The question is: may the police use force
3 "reasonably expected to cause physical injury" against journalists and peaceful
4 demonstrators because of the unrelated acts of a few lawbreakers?

5. In 2016, as in previous years, the Seattle police decided to punish anyone
6 and everyone for the acts of a handful of lawbreakers. Journalists, peaceful
7 demonstrators, onlookers, and passers-by: all of these people, unconnected to any
8 illegal act, were injured while the Seattle police fired grenade after grenade.

9. There is a legitimate state interest in protecting property and officer
10 safety, but Seattle's grenade attacks on journalists and others are not a proportionate,
11 constitutional response to the provocations of a few.

12. Over an hour after the May Day march began, a bit after 7:30 pm, police
13 had formed a line and were forcing the protest down Fourth Avenue near the stadiums.

14. Video shows that Levine, along with many other journalists, medics, and
15 peaceful observers, was standing well back from the police line, filming the

16

17 COMPLAINT – Page 3

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1 demonstration.¹ He was holding a camera, documenting the day's events.² He was
 2 standing near the sidewalk; the six-lane road was closed to traffic.

3 7. The video shows that a handful of demonstrators were less than 20 feet
 4 from the police.³ The vast majority of the crowd was well back from the police.

5 8. A slow motion version of the video shows an officer tossing a grenade
 6 through the air.⁴ The grenade explodes twice: first, in mid-air, a small explosion ejects
 7 the metal fuse. A second, larger explosion, fragments the grenade's case, sending
 8 shrapnel into the air.

9 9. Levine is seen going down as if it hit by a grenade.⁵ He was, in fact, hit by
 10 a grenade.

11 10. On another video, we hear the explosion. Then we see Levine after he is
 12 hit, lying on the ground bleeding.⁶ He saw a "bright flash of light, my ears started
 13 ringing, then the entire left side of my face went numb."⁷ He can be heard asking "is
 14 my face gone?"⁸ A piece of shrapnel pierced Levine's cheek.⁹

15 11. Video footage captured by Levine himself shows a grenade leave the
 16 officer's hand in a high arc. The fuse goes off in mid-air, around the two-second mark.
 17 The grenade then hits the ground, bounces toward Levine, and explodes. Levine spins
 18 and hits the ground.¹⁰

19

20 1 <https://youtu.be/4n6YclCP2NE?t=1m23s>

21 2 <https://youtu.be/4n6YclCP2NE?t=2m44s>

22 3 <https://youtu.be/4n6YclCP2NE?t=1m58s>

23 4 <https://youtu.be/4n6YclCP2NE?t=2m21s>

24 5 <https://youtu.be/4n6YclCP2NE?t=2m59s> (Levine is in a white shirt and backpack, partially obscured by
 25 graphics).

26 6 <https://youtu.be/r9wIGUUtTiRY?t=11m>

7 <http://komonews.com/news/local/man-injured-in-may-day-protest-i-saw-a-bright-flash-of-light-my-ears-started-ringing>

8 <https://youtu.be/r9wIGUUtTiRY?t=11m10s>

9 *Id.*

10 <https://twitter.com/samlevine/status/727236619967692801>

1 12. Levine is attended by medics as grenades continue to explode in the
2 background.¹¹

3 13. Levine was taken to the hospital where the shrapnel was removed from
4 his face.

5 14. Combined Tactical Systems, CTS, is a company that manufactures the
6 grenades that Seattle uses at demonstrations.

7 15. When the shrapnel was removed from Levine's cheek, it had the letters
8 "CTS" on it.



26
11 <https://youtu.be/SaylHnI2ZpI?t=3m41s>



1 16. Levine's cheek later required surgery. Despite this surgery, Levine will
2 never have the same smile he had before the grenade shrapnel ripped through his face.
3 He will never have full facial symmetry. He will always have a scar.



22 17. Although many people had complained about grenade injuries in 2015,
23 Seattle failed to change its policies and practices on deployment of the grenades.

24 18. Although many people had complained about grenade injuries in 2015,
25 on April 29 and on April 30, 2016, Seattle denied that the grenades could cause injury.

1 19. Although a Seattle police officer went to the hospital with burns caused
2 by a grenade on May Day 2015, on April 29 and on April 30, 2016, Seattle denied that
3 the grenades could cause injury.

4 20. Levine was not arrested for his actions on May Day.

5 21. Levine was violating no law at the time he was hit by the grenade.

6 22. Levine was violating no lawful order at the time he was hit by a grenade.

7 23. Since Levine was not engaged in illegal actions, no use of force was
8 justified, much less the degree of force used.

9 24. Since Levine was a journalist violating no law, no use of force was
10 justified, much less the degree of force used.

11 25. This action seeks compensation for physical injuries, pain and suffering,
12 as well as the harm of suppressing Levine's right to engage in First Amendment
13 activities.

14 26. This action also seeks an injunction requiring the Seattle Police
15 Department to plan for protests and train officers in a way that minimizes violence
16 against those engaging in and reporting on political speech, and seeks the removal of
17 incendiary devices from the standard weapons the Seattle police use, because
18 demonstrations are overwhelmingly made up of non-violent marchers, observers, and
19 journalists.

20 27. Finally, this action seeks punitive damages against the individual officers
21 so that they will never again use violence against peaceful reporters.

JURISDICTION AND VENUE

24 28. This Court has original jurisdiction under 28 U.S.C. § 1331 (federal
25 question jurisdiction) and 28 U.S.C. § 1337 (supplemental jurisdiction over state law
26 claims).

1 29. Venue is appropriate under 28 U.S.C. § 1331(b), because Defendants
2 reside in this District and because all of the events and omissions giving rise to the
3 claims occurred in this District. The Seattle Division is the proper forum because the
4 events took place in King County, Washington.

PARTIES

30. Plaintiff Samuel Levine is a resident of Seattle, King County, Washington.

31. Defendant City of Seattle is a city under Washington law.

9 32. Assistant Police Chief Steve Wilske is a Seattle police officer and the
10 officer in charge of planning the police force's actions on May Day. Wilske
11 commanded, authorized, encouraged, tolerated, and/or ratified the use of excessive
12 force and suppression of speech by officers. He is sued personally and in his official
13 capacity.

33. Defendant John Doe 1 is a Seattle Police Officer who was on duty at the May demonstration on the evening of May 1, 2016. John Doe 1 threw a grenade injured Levine, inflicted pain, and prevented Levine from engaging in First Amendment Activity. He is pictured in numerous videos. He is sued personally.

34. Defendant Jane Doe 1 is a Seattle Police Officer who was on duty at the May demonstration on the evening of May 1, 2016. Jane Doe 1 instructed John to throw the grenade that injured Levine, inflicted pain, and prevented Levine from engaging in First Amendment activity. Jane Doe 1 further failed to intervene to stop John Doe 1's excessive use of force.

THE WEAPON, THE MARCH, AND THE INJURY

25 35. Seattle and the individual defendants were on notice that the grenades
26 they deploy at protests can cause significant harm.

1 **The grenades are designed to, and known to, cause injuries**

2 36. In its catalog, CTS, the manufacturer of the grenades, informs its
 3 customers that the grenades are Level 5 force. The scale is 1-6, with 6 being deadly
 4 force, and pepper spray being Level 3 force.¹²

5 37. A research paper quoted the manufacturer as estimating that the
 6 grenades generate heat of up to 2700 degrees Fahrenheit and sound from 165-180
 7 dB.¹³

8 38. According to the Seattle Police Department, what people fear on the most
 9 basic level is thunder and lightning. The Seattle Police Department describes the
 10 grenades as “thunder and lightning in the palm of your hand.” It is a weapon designed
 11 to terrorize individuals into compliance.¹⁴

12 39. In the same video,¹⁵ the Seattle Police Department admits grenades are
 13 not to be thrown into crowds, but to the side of a crowd to move people in a direction,
 14 to “herd them into escape routes.” Defendants, however, implemented a plan on May
 15 Day to throw grenades indiscriminately into crowds. Defendants also implemented a
 16 plan to target grenades as weapons against journalists.

17 40. The grenades work much like military grenades. The grenades have a pull
 18 ring. Pulling on the pull ring releases the safety pin. When deployed, a lever releases,
 19 priming the grenade to explode. In the grenades here, there are two explosions. A
 20 small explosion ejects the metal pin assembly. Shortly after, a second explosion

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 22
 23 ¹² https://www.combinedsystems.com/userfiles/pdfs/Missions_Brochure.pdf at 3, 11.

24 ¹³ A December 2012 article “Evaluation of Rubber Ball Grenades: Applications for Law Enforcement and
 Corrections” Charlie Mesloh, et al. (published for a “Law Enforcement Executive Forum - 2012) studied the
 25 CTS grenades (model 9590) and note: “According to Combined Tactical Systems (2009), these devices generate
 three primary effects: heat (2700° F), light (6-8 million c.d.), and sound (165-180 dB).”
 (http://www.academia.edu/2108148/Stingball_Grenade_Evaluation

26 ¹⁴ <http://blutube.policeone.com/videos/935703812001-blast-ball-lesslethal-crowd-control/> (at 4:20).

¹⁵ <http://blutube.policeone.com/videos/935703812001-blast-ball-lesslethal-crowd-control/>

1 fragments the rubber body. Some grenades contain a chemical irritant, such as OC or
 2 pepper spray, which is released with the second explosion.

3 41. Seattle's use of grenades makes little sense. Seattle will claim that the
 4 grenades force protestors away so that they cannot throw objects at officers. But that
 5 simply creates a throwing contest: can the protestors throw objects 40 yards, about the
 6 distance from third to first base? If so, officers would need to throw the grenades at
 7 least that far to create a safety zone. But officers have less and less control over the
 8 explosion the further away it occurs. Using the grenades to create a buffer zone of more
 9 than a couple of yards necessarily creates an unreasonable chance of injuries to citizens
 10 and journalists.

11 42. At closer distances, pepper spray can be deployed at specific targets,
 12 minimizing harm to journalists and nonviolent participants.¹⁶

13 43. The police received several complaints about injuries from grenades at
 14 the May Day 2015 demonstration.¹⁷

15 44. Members of Seattle's City Council were extremely critical of these
 16 grenade deployments.¹⁸

17 45. The complaints from citizens, including documentation of an injury to a
 18 journalist from the *Seattle Weekly*, led to an investigation by Seattle's Office of Police
 19 Accountability.¹⁹

20 46. OPA found that blast ball grenades "exploded in extremely close
 21 proximity to people, not all of whom were engaged in destruction of property or posed
 22 a threat to public safety."²⁰

23 _____
 24 ¹⁶ <http://blutube.policeone.com/videos/935703812001-blast-ball-lesslethal-crowd-control/> (stating that the
 grenades should be used when chemical sprays are not effective).

25 ¹⁷ <http://www.seattle.gov/Documents/Departments/OPA/ClosedCaseSummaries/2015-0643ccs12-08-15ma.pdf>

26 ¹⁸ <http://www.seattletimes.com/seattle-news/crime/harrell-idiotic-arrest-caused-melee-at-may-day-protest/>

¹⁹ <http://www.seattle.gov/Documents/Departments/OPA/ClosedCaseSummaries/2015-0643ccs12-08-15ma.pdf>
²⁰ *Id.* at 6.

1 47. Paige Cornwell of the *Seattle Times* was hit by a grenade on video in
 2 2015.²¹

3 48. Cornwell confirmed the injury on Twitter.²²

4 49. Seattle's Chief of Police has steadfastly supported the use of the grenades
 5 against lawful protestors.

6 50. After the 2015 May Day demonstration, Chief O'Toole professed to be
 7 shocked—not by police violence against peaceful protesters, but by criticism of that
 8 police violence by City Council members, the press, and citizens.²³

9 51. After reviewing the Force Review Board and Office of Police
 10 Accountability reports on the use of blast ball grenades at May Day 2015, Seattle and
 11 Chief O'Toole continued to support their deployment.²⁴

12 **The 2016 anti-capitalist May Day demonstration**

13 52. There are many demonstrations on May Day in Seattle. In this
 14 Complaint, May Day, demonstration, and protest refer to the anti-capitalist march on
 15 May 1, 2016.

16 53. The demonstration began around 6 pm at Westlake Center. There were
 17 perhaps 200 demonstrators at Westlake park, and possibly 400 police officers.

18 54. The police immediately “kettled”²⁵ the march, not allowing it to move
 19 except in strictly controlled directions completely surrounded by police.²⁶

20 ²¹ <http://www.thestranger.com/blogs/slog/2015/05/04/22163943/video-seattle-police-burn-seattle-times-reporters-foot-with-a-flashbang-grenade>

21 ²² <https://twitter.com/pgcornwell/status/594337761315827712>

22 ²³ [http://spdblitter.seattle.gov/2015/05/06/chief-otoole-shocked-and-disappointed-by-councilmember-harrells-statements-all-force-remains-under-review/See also http://www.king5.com/story/news/local/seattle/2015/05/01/may-day-friday-coverage/26724049/](http://spdblitter.seattle.gov/2015/05/06/chief-otoole-shocked-and-disappointed-by-councilmember-harrells-statements-all-force-remains-under-review/See%20also%20http://www.king5.com/story/news/local/seattle/2015/05/01/may-day-friday-coverage/26724049/) (O'Toole stating that officers were “very professional” in how they handled May Day).

23 ²⁴ Letter from O'Toole to Pierce Murphy at OPA, January 8, 2016 at 2.

24 ²⁵ <https://en.wikipedia.org/wiki/Kettling>

25 ²⁶ <http://www.king5.com/news/local/seattle/my-first-seattle-may-day/164796969> (“Police dictated where the protestors marched. From the get-go, police blocked off the road up to Capitol Hill. The protestors felt they were being herded like cattle, eventually being funneled to the commercial district of SoDo.”).

1 55. The march proceeded toward Belltown, and eventually the police pushed
2 the march south on Second Avenue, which had been closed to traffic.

3 56. As is true every year, a small number of individuals in the crowd
4 committed illegal acts. This included writing on a car with Sharpie, lighting fireworks,
5 and other crimes against property.

6 57. More seriously, at a couple of points during the march, but prior to
7 Levine's injury, a few people in the crowd threw rocks, bottles, and other objects at
8 officers.

9 58. In one sad incident on Second Avenue, a rock hit a police officer on the
10 face, causing a serious injury.

11 59. After this injury to the officer, the police lost their patience and control.

12 60. Every year, there are acts of property destruction and aggression toward
13 police. Both are designed to provoke police into an overreaction.

14 61. Every year, Seattle police overreact to the acts of a few individuals.

15 62. Every year, a march that might pass unnoticed becomes international
16 news because Seattle police fall into the same trap.

17 63. In 2016, on Second Avenue, the police began their annual ritual of
18 collective revenge, creating the images of police violence that define Seattle's May Day.

19 64. Rather than arrest wrongdoers, Seattle acts to collectively punish all
20 people involved in the demonstration.

21 65. The demonstrators on Second Avenue were outnumbered by police
22 officers, and that remained true as the demonstration continued down Fourth Avenue.

23 66. The demonstrators were also completely contained by the police
24 presence.

25 67. Anyone who wished to leave the demonstration had difficulty doing so, as
26 the police were not allowing people through their lines.

1 68. Although the demonstration was contained, the police used pepper spray
 2 and grenades.

3 69. Starting around Second Avenue and Cherry Street, video shows the
 4 demonstration, including numerous journalists and observers, moving in the direction
 5 ordered by the police, but officers are throwing grenade after grenade into the crowd.
 6 For instance, around Second and Yesler, one video has an officer on the sidewalk
 7 yelling for protestors to “go home, get out of here,” although the grenades are
 8 exploding ahead and at the side of the protestors, who are boxed in from behind by the
 9 officers and on the other side by a building.²⁷

10 70. After passing Yesler, the police forced the march down Fourth Avenue by
 11 the stadiums.

12 71. Around Seattle Boulevard South, one or two bottles were thrown at the
 13 police. They appear to have contained a flammable liquid, although thankfully neither
 14 exploded — until the police mistakenly lit one of the bottles on fire with a grenade.²⁸
 15 The injury to the officer that occurred when the police grenade started a fire is the only
 16 injury associated with the bottles.

17 72. The broken bottle can be seen at 1:48 of this video.²⁹

18 73. At 1:58, the person closest to the camera, and closest to the police line, is
 19 journalist Casey Jaywork from the *Seattle Weekly*.³⁰

20 74. By the time the grenade is fired at Levine, the crowd has moved well
 21 away. There is no threat to the police. And still, a grenade was thrown.³¹

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 25 ²⁷ <https://www.facebook.com/KING5Photojournalists/videos/1045598392181530/>
 26 ²⁸ <http://www.seattleweekly.com/news/video-suggests-police-not-protesters-ignited-liquid-that-burned-officer-during-may-day-protest/>
 27 ²⁹ <https://youtu.be/4n6YclCP2NE?t=1m48s>
 28 ³⁰ <https://youtu.be/4n6YclCP2NE?t=1m58s>
 29 ³¹ <https://youtu.be/4n6YclCP2NE?t=2m15s>

1 75. Around this time, an officer at some distance from where the bottles
 2 broke threw the grenade that injured Levine.

3 76. The grenade's flight is well-documented, and it appears to be thrown
 4 directly at Levine.

5 77. The video of the grenade exploding and harming Levine shows the
 6 distance between Levine and the police. Demonstrators and journalists can be seen to
 7 be at least 20 feet from the police line.³²

8 78. After the grenade explodes, Levine falls to the ground. Covered in blood,
 9 he is rushed to the hospital.

10 79. At the hospital, a doctor told him that he was lucky that the shrapnel
 11 avoided his neck, because that could have killed him.

12 80. When Chief O'Toole was the head of the Boston police, a journalism
 13 student died when she was hit in the eye by a less-lethal projectile.³³

14 81. The shrapnel removed from Levine's face was a little more than 1 inch
 15 long and had the letters "CTS" written on it.

16 82. After having the shrapnel removed, the swelling went down and Levine
 17 took a course of antibiotics. He had a headache for a couple of days.

18 83. Shortly after being injured, Levine did two interviews about his injury.
 19 The first was interview was aired on KOMO, a local television station. During this
 20 interview, Levine describes seeing a "bright flash of light, my ears started ringing, then
 21 the entire left side of my face went numb."³⁴

22 84. Levine told another interviewer some of the reasons he was chronicling
 23 the demonstration. Levine was trying to capture raw footage of the protest so that the

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 25 ³² <https://youtu.be/4n6YclCP2NE?>

26 ³³ https://en.wikipedia.org/wiki/Death_of_Victoria_Snelgrove

27 ³⁴ <http://komonews.com/news/local/man-injured-in-may-day-protest-i-saw-a-bright-flash-of-light-my-ears-started->
 ringing

1 story of the demonstration would not be reduced to a simple narrative, regurgitated by
 2 a handful of media outlets. Levine believed that multiple outlets are necessary to make
 3 sure the truth comes out and the public receives the complex stories such as this one
 4 with the nuance it deserves.

5 85. Seattle's description of "Molotov Cocktails" at the demonstration
 6 highlights the value of this kind of at-the-scene journalism. Seattle claimed that a
 7 demonstrator burned an officer when a Molotov Cocktail was thrown at officers. The
 8 truth is more complicated.

9 86. Someone brought bottles full of a flammable liquid, possibly gasoline, to
 10 the demonstration. The bottles were not lit when they were thrown.³⁵

11 87. Notwithstanding the seriousness of throwing a bottle, Seattle claimed
 12 that officers were burned by the bottles; in reality, the liquid was set on fire by their
 13 own grenade.³⁶

14 88. The grenade that exploded behind police lines started a fire. This fire
 15 injured an officer. It was not a lit Molotov Cocktail that injured an officer, but the
 16 police over-reaction. It was caused because the grenades can bounce backwards,
 17 toward officers.

18 89. In 2015, at least one officer was hurt when a grenade burned him. Rather
 19 than accept that friendly fire burned Officer Corey Williams, Seattle tried to blame the
 20 victim. Seattle argues that his injury was caused by his nylon socks.

21 90. Seattle also ignored injuries in 2015 to *Seattle Times* reporter Paige
 22 Cornwell,³⁷ and *Seattle Weekly* reporter Casey Jaywork.

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³⁵ A Molotov Cocktail is, by definition, lit before it is thrown. To be effective, such a weapon must be lit when it
 24 hits the ground. https://en.wikipedia.org/wiki/Molotov_cocktail ("In action, the wick is lit and the bottle hurled
 at a target such as a vehicle or fortification.").

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³⁶ <http://www.seattleweekly.com/news/video-suggests-police-not-protesters-ignited-liquid-that-burned-officer-during-may-day-protest/>; <http://hjgale.tumblr.com/post/147149903814/facts-and-firebombs-how-incendiary-claims-and>

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³⁷ <https://twitter.com/pgcornwell/status/594337761315827712>

1 91. Seattle's failure to acknowledge grenade injuries to peaceful protestors
 2 and journalists is one reason why demonstrations must be documented by multiple
 3 journalists.

4 92. As Levine told an interviewer after his injury, while the police have a
 5 responsibility to prevent people from "burning down the city," the police response
 6 need only be as serious as the threat they face. Every year on May Day, the police let
 7 protestors goad them into a disproportionate response.

8 93. Seattle is proud of this disproportionate response. Not only do the Mayor
 9 and the Chief back up this chronic, systematic use of excessive force, Seattle holds itself
 10 out as a national model for policing protests. Seattle invited representatives from
 11 Cleveland to watch how it polices protests. Somehow, though, the Cleveland police,
 12 facing thousands of protestors in a tense situation caused by recent deaths of officers
 13 and political polarization,³⁸ managed to police the protests without resorting to using
 14 grenades, focusing on the bike tactics that Seattle used in 2014, a year in which
 15 grenades were not used at the May Day demonstration.³⁹

16 94. Instead of following Seattle's lead, Cleveland officers de-escalated the
 17 situation at the Republican National Convention.

18 95. On August 10, 2016, more than 40 filmmakers, including eight Oscar
 19 winners, called on the Department of Justice to investigate the harassment and
 20 targeting of citizen journalists who record episodes of police violence.⁴⁰

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³⁸ <http://abcnews.go.com/Politics/largely-peaceful-protests-show-wide-swath-anger-cleveland/story?id=40674042>

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³⁹ http://www.huffingtonpost.com/entry/cleveland-rnc-protest-policing_us_578e71c9e4b0f180da632643

⁴⁰ <https://www.theguardian.com/film/2016/aug/10/filmmakers-citizen-journalists-justice-department-investigation>

CAUSES OF ACTION

COUNT 1: 42 U.S.C. § 1983

(Against all Defendants for Violation of the First Amendment)

96. Defendants' actions in targeting, harming, and intimidating Levine infringe on his right to speak by discouraging him from reporting on demonstrations and by forcing him to stop filming the 2016 May Day demonstration. These actions were taken under color of law and without lawful justification.

97. Levine was engaged in activity protected by the First Amendment.

98. Levine was a non-violent journalist in a political protest. Levine was not resisting a lawful order.

99. No use of force against Levine was justified.

100. The police targeted Levine while he was engaged in protected activity and because he was engaged in protected activity. Police targeted him because he was filming police actions. By targeting him with a grenade, the defendants made it impossible for Levine to continue his First Amendment activities. Levine's injury forced him to cease reporting on the demonstration.

101. All defendants either actively engaged in intimidating Levine and causing injury to Levine, knew of and approved of the actions of officers who intimidated and harmed Levine, knew of and failed to intervene to stop officers from intimidating and harming Levine, and/or took actions or omissions that led predictably to the intimidation of and injuries to Levine.

102. Levine's injuries should be compensated in an amount determined by a jury. Punitive damages should be awarded against the individual defendants.

COUNT 2: 42 U.S.C. § 1983

(Against all Defendants for Violation of the Fourth and Fourteenth Amendments)

1 103. Levine was a non-violent journalist covering a political protest. Levine
2 was not resisting a lawful order.

3 104. No use of force against Levine was justified.

4 105. Defendants' actions — intimidating, striking, and harming Levine with a
5 grenade — violated his right to be free of excessive force, unreasonable searches and
6 seizures, and his due process right to be free of punishment without process. These
7 actions were taken under color of law and without lawful justification.

8 106. All defendants either actively engaged in intimidating Levine and causing
9 injury to Levine, knew of and approved of the actions of officers who intimidated and
10 harmed Levine, knew of and failed to intervene to stop officers from intimidating and
11 harming Levine, and/or took actions or omissions that led predictably to the
12 intimidation and injuries to Levine.

13 107. Levine's injuries should be compensated in an amount determined by a
14 jury. Punitive damages should be awarded against the individual defendants.

COUNT 3: 42 U.S.C. § 1983

(Against the City of Seattle for a pattern and practice of excessive force, violating the Fourteenth Amendment)

108. By failing to properly train, supervise, or discipline officers, the City of Seattle has a pattern and practice, or policy or custom, of using excessive force against non-violent protesters, bystanders, and journalists.

109. By commanding, authorizing, encouraging, tolerating, and/or ratifying the use of excessive force by officers on May Day 2016, the City of Seattle engaged in a pattern and practice of excessive force against non-violent protestors, bystanders, and journalists.

110. As a result, Levine has been permanently injured.

1 111. Levine's injuries should be compensated in an amount determined by a
2 jury.

COUNT 4: ASSAULT AND BATTERY

(Against Defendant John Doe 1)

112. Defendant John Doe 1 made an intentional and unpermitted contact with Levine by deploying a grenade at him.

113. Defendant John Doe 1 intended to hit Levine with the grenade or to make him fear that the grenade would hit him.

114. A reasonable person would find being hit by grenade shrapnel to offend their safety and personal dignity.

115. At no time did Levine consent to the actions of Defendant John Doe.

116. As a result, Levine has been permanently injured.

117. Levine's injuries should be compensated in an amount determined by a

jury.

PRAYER FOR RELIEF

Plaintiff prays for judgment against Defendant as follows:

- A. Damages in an amount to be determined by jury;
 - B. Punitive damages in an amount to be determined by a jury;
 - C. A declaration that any use of force against journalists who are complying with police orders is excessive force;
 - D. A declaration that the police must face a credible threat to life safety to deploy grenades into a crowd consisting of mostly peaceful demonstrators, journalists, and others obeying all lawful orders;

- 1 E. A permanent injunction prohibiting Defendants from using excessive
2 force, including grenades, against journalists and others peacefully
3 participating in, supporting, or observing demonstrations;
4 F. Costs of suit, including reasonable attorneys' fees, costs, and expenses
5 as provided by law; and
6 G. Such other, further, and different relief as the nature of the case may
7 require or as may be determined to be just, equitable, and proper by
8 this Court.

9
10 DATED August 16, 2016.

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